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Honorable Members of the Senate Judiciary Committee:

For the record, my name is Lori Henderson-I am from Northern Montana Care Center in Havre. I have been a nursing home administrator for 13 years and I am a nurse.

Last summer nine fellow nursing home administrators and I were commiserating about our frustrations of having large uncollectible accounts receivable within our facilities. As we began sharing our stories, we realized that between us there was at least a million dollars in outstanding and seemingly uncollectible debt. Common threads soon became apparent as we discussed our dilemmas. Those outstanding accounts occurred because of denials for Medicaid eligibility or the bill was just not being paid by the resident's designee. 95% of the Medicaid eligibility denials were due to mishandling of the resident's assets by family members. Most of us had expended significant financial resources trying to recover the funds but all of us found our hands tied by Montana's Power of Attorney law. The law is vague and a standard and specific form is often not utilized. Many of the residents had POA forms in effect that were drawn up by an attorney and legally notarized. Many more utilized forms they had downloaded from the Internet or purchased. These purchased or Internet forms were generic and often broad and sweeping; leaving a great deal of latitude for the Agent but no protection for the resident. It didn't seem to matter if the forms were legally drawn up or downloaded from the Internet-the outcome was and is the same-There is virtually no recourse against an individual POA who willingly and knowingly mishandles someone's funds.

According to State and Federal regulations, the facility cannot hold the Agent personally responsible for those debts incurred by the Principal. Given that, it is a very tortuous road to recover money that has been mishandled. In the case of the nursing home resident, the resident is rarely willing to press charges. I've heard phrases like, "If I change my POA form to keep my daughter from taking my money-she will stop coming to see me. I'd rather die." You can't turn the case into the Medicaid Fraud Unit-It isn't Medicaid Fraud issue because the resident isn't on Medicaid-he or she had been denied eligibility. Adult Protective Services and the Ombudsman do not get involved until the facility issues a discharge notice. Discharging the resident might stop the financial bleeding but the resident suffers and the facility must then proceed through a very costly and often unsuccessful legal venture to recoup the unpaid bill.

As an Administrator, I've had to issue discharges for nonpayment of services. I'm in the process of trying several different approaches through legal counsel to recover large unpaid nursing home bills. It takes time and resources away from the very people we are trying to care for and protect. However, until I experienced it through a close acquaintance, did I realize the emotional impact on those involved. To protect the identity of the exploited individual, I will change the relationship but I will tell you the story. My friend was a proud lady-she worked in the shipyards during WWII, helped her husband build a business from the ground up, and she helped people all her life. My friend's daughter and her husband died, leaving her grandchildren to help her out. When my friend became sick and needed someone to manage her business and finances, she appointed her granddaughter as a POA and signed a POA form downloaded from the Internet. It was signed and notarized-all perfectly legal. When my friend entered the nursing home, her granddaughter emptied my friend's savings account and spent all of her money,

leaving a large outstanding debt at the nursing home. Fortunately for the sake of my friend, she died before she knew what happened. Unfortunately for the nursing home, a debt went unpaid.

According to the 2010 Elder Investor Fraud Survey from the Investor Protection Trust, one out of every five people over the age of 65 -or 7.3 million older Americans- has been the victim of a financial swindle. Our elderly, frail, and vulnerable residents are being exploited by the very people to whom they have entrusted their finances.

Please support HB 374- It will create a Uniform Act that contains important provisions for those who rely on the document and the individuals to act as they themselves would perform business, if they were able-to perform the duties with integrity and accountability. The Uniform Act includes remedies and sanctions for those who abuse their fiduciary and ethical responsibilities. And last but not least, I believe that it will give our elderly and those who depend on this process some peace of mind. Further, it will place Montana among those States that have the foresight to create a consistent message to those who would do ill-will against our elderly, disabled, and Veterans.

Thank you for listening

*Beri Henderson, RN, BSN, NHA  
Administrator of Northern MT  
Care Center  
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